

97TH CONGRESS
1ST SESSION

H. R. 756

To amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1981

Mr. KILDEE (for himself and Mr. BONER of Tennessee) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a)(1) subchapter I of chapter 81 of title 5, United
4 States Code, is amended by inserting after section 8147 the
5 following new section:
6 “§8148. Death benefits for law enforcement officers and
7 firefighters
8 “(a) For the purpose of this section—

1 “(1) ‘law enforcement officer’ means an em-
2 ployee—

3 “(A) the duties of whose position include
4 performing work directly connected with—

5 “(i) the control of crime or juvenile
6 delinquency;

7 “(ii) the enforcement of the criminal
8 laws; or

9 “(iii) the protection of Federal officials,
10 public buildings or property, or foreign diplo-
11 matic missions; and

12 “(B) who, at the time the personal injury re-
13 ferred to in subsection (b) of this section is sus-
14 tained, is—

15 “(i) engaged in the detection of crime;

16 “(ii) engaged in the apprehension of an
17 alleged criminal offender;

18 “(iii) engaged in the keeping in physical
19 custody of an alleged or convicted criminal
20 offender; or

21 “(iv) assaulted or subjected to the con-
22 duct of criminal activity in the line of duty;

23 “(2) ‘firefighter’ means an employee the duties of
24 whose position include performing work directly con-
25 nected with the control and extinguishment of fires and

1 who, at the time the personal injury referred to in sub-
2 section (b) of this section is sustained, is engaged in
3 such work in the control or extinguishment of a fire or
4 other emergency operation;

5 “(3) ‘child’ means any natural, illegitimate,
6 adopted, or posthumous child or stepchild of a deceased
7 law enforcement officer or firefighter (as defined in
8 paragraphs (1) and (2)) who, at the time of such law
9 enforcement officer or firefighter’s death, is—

10 “(A) 18 years of age or under;

11 “(B) over 18 years of age and a student; or

12 “(C) over 18 years of age and incapable of
13 self-support because of physical or mental
14 disability;

15 “(4) ‘dependent’ means substantially reliant for
16 support upon the income of the deceased law enforce-
17 ment officer or firefighter;

18 “(5) ‘intoxication’ means a disturbance of mental
19 or physical faculties resulting from the introduction of
20 alcohol, drugs, or other substances into the body; and

21 “(6) ‘detection of crime’ means the physical pur-
22 suit, investigation, or interviewing of any individual at
23 a crime scene, but shall not include laboratory investi-
24 gation, studies, or other similar acts of a nondangerous
25 nature.

1 “(b)(1) In any case in which the Secretary of Labor de-
2 termines, under regulations prescribed pursuant to this sec-
3 tion, that a law enforcement officer or firefighter has died as
4 the direct and proximate result of a personal injury inflicted
5 by an outside force and in the line of duty, the Secretary
6 shall pay a benefit of \$50,000 as follows:

7 “(A) if there is no surviving child of such law en-
8 forcement officer or firefighter, to the surviving spouse
9 of such law enforcement officer or firefighter;

10 “(B) if there are one or more surviving children
11 and a surviving spouse, one-half to the surviving chil-
12 dren in equal shares and one-half to the surviving
13 spouse;

14 “(C) if there is no surviving spouse, to the surviv-
15 ing children of such law enforcement officer or fire-
16 fighter in equal shares; or

17 “(D) if none of the above, to the dependent parent
18 or parents of such law enforcement officer or firefighter
19 in equal shares.

20 “(2) In any case in which the Secretary determines,
21 upon a showing of need and prior to taking final action, that
22 the death of a law enforcement officer or firefighter is one
23 with respect to which a benefit will probably be paid, the
24 Secretary may make an interim benefit payment not exceed-

1 ing \$3,000 to the individual entitled to receive a benefit
2 under paragraph (1) of this subsection.

3 “(3) The amount of an interim payment to any individu-
4 al under paragraph (2) of this subsection shall be deducted
5 from the amount of any final benefit paid to such individual.

6 “(4) In any case in which there is no final benefit paid,
7 the recipient of any interim payment under paragraph (2) of
8 this subsection shall be liable for repayment of such amount.
9 The Secretary may waive all or part of such repayment, con-
10 sidering for this purpose the hardship which would result
11 from such repayment.

12 “(5) The benefit payable under this section shall be in
13 addition to any compensation or other benefit that may be
14 due under this subchapter or from any other source, but shall
15 be reduced by payments authorized by section 12(k) of the
16 Act of September 1, 1916, as amended (D.C. Code, sec.
17 4-531(1)).

18 “(6) No benefit paid under this section shall be subject
19 to execution or attachment.

20 “(7) No benefit shall be paid under this section—

21 “(A) if the law enforcement officer or firefighter’s
22 death was caused by the intentional misconduct of the
23 law enforcement officer or firefighter or by such law
24 enforcement officer or firefighter’s intention to bring
25 about such death;

1 “(B) if voluntary intoxication of the law enforce-
2 ment officer or firefighter was the proximate cause of
3 death; or

4 “(C) to any individual who would otherwise be
5 entitled to a benefit under this section if such individ-
6 ual’s actions were a substantial contributing factor to
7 the law enforcement officer or firefighter’s death.

8 “(c) The Secretary may prescribe rules, regulations, and
9 procedures to carry out the purpose of this section. Such
10 rules, regulations, and procedures will be determinative of
11 conflict of laws and issues arising under this section. Rules,
12 regulations, and procedures prescribed under this section may
13 include regulations governing the recognition of agents or
14 other persons representing claimants under this section
15 before the Secretary. The Secretary may prescribe the maxi-
16 mum fees which may be charged for services performed in
17 connection with any claim under this section before the Sec-
18 retary, and any agreement in violation of such rules and reg-
19 ulations shall be void.”.

20 (2) The table of sections for chapter 81 of title 5, United
21 States Code, is amended by inserting after the item relating
22 to section 8147 the following new item:

 “8148. Death benefits for law enforcement officers and firefighters.”.

23 (b)(1) Section 8101(9) of title 5, United States Code,
24 relating to definition of “child”, is amended by inserting after

1 "means" the following: " , except as provided in section
2 8148(a)(3) of this title,".

3 (2) Section 8101(12) of such title, relating to definition
4 of "compensation", is amended by striking out "Fund, but
5 this does not in any way reduce the amount of the monthly
6 compensation payable for disability or death;" and inserting
7 in lieu thereof the following: "Fund, except that—

8 "(A) this paragraph does not in any way reduce
9 the amount of the monthly compensation payable for
10 disability or death; and

11 "(B) such term does not include benefits paid
12 under section 8148 of this title;".

13 SEC. 2. The authority to make payments under section
14 8148 of title 5, United States Code (as added by the first
15 section of this Act), shall be effective only to the extent pro-
16 vided for in advance by appropriation Acts.

17 SEC. 3. The amendments made by this Act shall take
18 effect October 1, 1981, and shall apply with respect to inju-
19 ries sustained on or after such date.

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